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Of Attorneys for Defendant City of Eugene

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**JUSTIN TYLER VANDEGRAAF,**

Case No.: 6:08-cv-6314-HO

Plaintiff,

vs.

**CITY OF EUGENE, A MUNICIPALITY;  
OFFICER J. SHARLOW (No. 388), in his  
individual capacity and as a police official for  
the City of Eugene,**

**DECLARATION OF ANDREA COIT  
IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT BY THE  
CITY OF EUGENE**

Defendants.

---

I, Andrea Coit, declare as follows:

1. I am one of the attorneys for the City of Eugene in the above captioned matter.
2. This case was filed on October 10, 2008.
3. There is no trial date set in this case.

4. By order of this court dated January 28, 2009, the discovery cut off deadline was set for May 11, 2009.

5. To date, plaintiff has not served any discovery requests on the City of Eugene.

6. To date, plaintiff has not requested or taken the deposition of any person associated with the City of Eugene in this case.

7. Attached hereto as Exhibit 1 are true and accurate copies of excerpts from the Deposition of Justin Vandegraaf, taken in this matter on April 28, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 11 day of May, 2009.

HARRANG LONG GARY RUDNICK P.C.

By: Andrea D. Coit  
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Of Attorneys for Defendant City of Eugene

UNITED STATES DISTRICT COURT  
FOR THE STATE OF OREGON

JUSTIN TYLER VANDEGRAAF, }  
Plaintiff, }  
vs. }  
CITY OF EUGENE, A MUNICIPALITY; }  
OFFICER J. SHARLOW (No. 388), }  
in his individual capacity and }  
as a police official for the }  
City of Eugene, }  
Defendants. }  
NO. 6:08-cv-6314-HO

DEPOSITION OF JUSTIN TYLER VANDGRAAF

THE DEPOSITION OF JUSTIN TYLER VANDEGRAAF  
was taken as a witness on behalf of defendant City  
of Eugene, pursuant to Oregon Rules of Civil  
Procedure, at 9:35 a.m. on Tuesday, the 28th day of  
April 2009, at the law offices of Harrang Long Gary  
Rudnick, P.C., 360 East 10th Avenue, Suite 300, in  
the City of Eugene, County of Lane, State of Oregon,  
before Eleanor G. Knapp, CSR-RPR, Certified  
Shorthand Reporter in and for the State of Oregon.

Appearances - J. VandeGraaf  
A P P E A R A N C E S

For the Plaintiff:

MICHAEL VERGAMINI  
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399 East 10th Avenue, Suite 207  
Eugene, Oregon 97401  
541/302-1800  
BY: MR. MICHAEL VERGAMINI  
mdvergamini@efn.org

For Defendant City of Eugene:

HARRANG LONG GARY RUDNICK, P.C.  
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360 East 10th Avenue, Suite 300  
Eugene, Oregon 97401  
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BY: MS. ANDREA COIT  
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Also Present:

MS. CATHY JOSEPH

Reported by:

ELEANOR G. KNAPP, CSR-RPR

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witness

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J. VandeGraaf

15 A. Okay.  
16 Q. So have you given a deposition before?  
17 A. Never.  
18 Q. The most important thing is to answer all  
19 my questions verbally so the court reporter can take  
20 everything down and to let me finish asking a  
21 question before you answer. Okay?

22 A. Okay.  
23 Q. Okay. And no nodding because she can't  
24 put that down.  
25 A. I understand.

J. VandeGraaf 25  
 1 MR. VERGAMINI: Can I have a word with  
 2 him?  
 3 (A recess was taken.)  
 4 MR. VERGAMINI: He is going to amend  
 5 his answer to the last question.  
 6 A. You were talking about ever in my life?  
 7 BY MS. COIT:  
 8 Q. Certainly.  
 9 A. So I did engage in drug use before the age  
 10 of 18.  
 11 Q. And with that understanding, before the  
 12 age of 18, you told me marijuana, cocaine. Was  
 13 there anything else?  
 14 A. Yes. I took mushrooms once when I was in  
 15 high school, too.  
 16 Q. Since the age of 18 have you used any  
 17 illegal drugs?  
 18 A. No.  
 19 Q. In October 2006 were you on any sort of  
 20 prescription medications?  
 21 A. No.  
 22 Q. Did you drink in 2006, the year?  
 23 A. Yes.  
 24 Q. Can you estimate for me about how often  
 25 you would drink during the year of 2006?

J. VandeGraaf 27  
 1 worked 13 out of those 14 shifts.  
 2 Q. What time did you work at Vaquero?  
 3 A. Shortly after I got a DUI. I needed money  
 4 to pay for my lawyer, so I got a second job.  
 5 Q. Who was your lawyer in the DUI?  
 6 A. Douglas Dennett.  
 7 Q. What was his last name?  
 8 A. Dennett.  
 9 Q. How long did you work at Vaquero?  
 10 A. Until I went to jail.  
 11 Q. Now, when you would go out with friends,  
 12 have two or three drinks, how often would you do  
 13 that? Once a week, twice a week?  
 14 A. Maybe once a week.  
 15 Q. Would you normally get drunk?  
 16 A. No.  
 17 Q. What was your usual drink?  
 18 A. Vodka Red Bull.  
 19 Q. Have you ever been a bartender?  
 20 A. I have for, you know, making a drink at  
 21 places that I work at. Bartenders step out; servers  
 22 have to pour their own drinks. I've bartended at  
 23 functions before where you are a server and a  
 24 bartender, catering type events. Stuff like that.  
 25 Q. How, in your opinion, does alcohol affect

J. VandeGraaf 26  
 1 A. It was never something that was big into  
 2 my life where it was that regular.  
 3 Q. Would you drink at home?  
 4 A. Sometimes. Rarely.  
 5 Q. And at this point you were living with  
 6 Tiffanie and your daughter?  
 7 A. I was.  
 8 Q. Did Tiffanie drink?  
 9 A. Rarely.  
 10 Q. When you would drink at home, what would  
 11 you drink?  
 12 A. Sometimes we would get a bottle of vodka,  
 13 maybe. Or I remember once we got a bottle of  
 14 champagne. But I'm not really that big a drinker.  
 15 Q. How about when you would go out with  
 16 friends?  
 17 A. We would generally have two or three  
 18 drinks and then I would go home. I was kind of  
 19 known as the party pooper who would leave early. I  
 20 was the only one that worked and had a child. And I  
 21 also had two jobs.  
 22 Q. What was your other job?  
 23 A. At the time I worked at El Vaquero  
 24 Restaurant as well. So if you figure there is seven  
 25 lunches in a week and seven dinners in a week, I

J. VandeGraaf 28  
 1 you?  
 2 A. Much the same way it affects everybody  
 3 else, I assume.  
 4 Q. Tell me your experience.  
 5 A. It's a mood enhancer. So if you are in a  
 6 good mood, then it enhances that. If you are in a  
 7 bad mood, it enhances that. I've been serving  
 8 alcohol for over a decade, so I'm well aware of how  
 9 it affects you. It affects your judgment. It  
 10 reduces your inhibitions.  
 11 Q. I'm asking you personally.  
 12 A. It reduces my inhibitions. It affects my  
 13 judgment. It affects my reaction time. And yes,  
 14 it's a mood enhancer. So if I were sad, it would  
 15 probably make me more sad. If I was happy, it would  
 16 probably make me more happy.  
 17 Q. Have you ever blacked out from drinking?  
 18 A. Yes. Before the age of 18.  
 19 Q. Since the age of 18 have you ever woken up  
 20 in the morning and not remembered what happened the  
 21 night before?  
 22 A. Twice.  
 23 Q. Were either of those times in October  
 24 2006?  
 25 A. Neither of those times were in October of

J. VandeGraaf 29  
 1 2006. In October of 2006 I was assaulted, and I  
 2 remember, up until my head was crushed into the  
 3 pavement by a police officer's boot, everything that  
 4 happened. And after that, I don't remember anything  
 5 until I woke up inside the jail the next morning.  
 6 Q. We'll get into that in just a minute.  
 7 Have any of your family, friends told you they were  
 8 concerned about your drinking?  
 9 A. No.  
 10 Q. Are you diabetic?  
 11 A. No.  
 12 Q. Have you been to drug or alcohol treatment  
 13 class?  
 14 A. I have. I went to Prevention Northwest,  
 15 whatever it's called, on Olive Street.  
 16 Q. Was that court-mandated?  
 17 A. It was.  
 18 Q. How long was the treatment class?  
 19 A. Like nine months.  
 20 Q. How often did you have to go?  
 21 A. Every week.  
 22 Q. Once a week?  
 23 A. I think it was just once a week. Yeah.  
 24 Q. What did the treatment entail?  
 25 A. Going to a class, taking a drug test, and

J. VandeGraaf 31  
 1 Q. Have you ever dated anyone who worked for  
 2 the Eugene police?  
 3 A. No.  
 4 Q. No friends ever worked for the police?  
 5 A. No.  
 6 Q. Have you ever worked for the Eugene  
 7 police?  
 8 A. No.  
 9 Q. Have you ever discussed police training  
 10 with anyone from the Eugene police?  
 11 A. No.  
 12 Q. How about from the City of Eugene?  
 13 A. From the City of Eugene?  
 14 Q. Anyone that works for the City of Eugene?  
 15 A. No. I talked to sheriffs when I was in  
 16 custody at the jail about protocol because I was  
 17 trying to figure out how things are supposed to be  
 18 done.  
 19 Q. Tell me about that conversation.  
 20 A. Well, when you are taken out of a vehicle  
 21 at the sally port, a police officer walks behind you  
 22 approximately maybe three steps. And you are in  
 23 full visibility the entire time until you get up to  
 24 the door. And they lean you against the wall, and  
 25 they have you stand there while they take off their

J. VandeGraaf 30  
 1 going to outside AA meetings and not doing any  
 2 alcohol or drugs and being an active, participating  
 3 member in class.  
 4 Q. So were you drinking during the time in  
 5 between July and October 2006?  
 6 A. I did.  
 7 Q. How did you pass the test?  
 8 A. I wasn't enrolled in the class yet.  
 9 Q. When did you start the class?  
 10 A. After I was released from jail.  
 11 Q. So for the diversion, you didn't have to  
 12 go to class?  
 13 A. Well, it was all pushed out. So I didn't  
 14 start it until afterwards.  
 15 Q. Did you follow the mandate not to drink?  
 16 A. I did.  
 17 Q. Are you currently not allowed to drink?  
 18 A. That is correct.  
 19 Q. Do you know anybody employed by the Eugene  
 20 police?  
 21 A. Personally? No. I'm not friends with any  
 22 of the Eugene police officers.  
 23 Q. Does any of your family work for Eugene  
 24 police?  
 25 A. Never. My family is not from here.

J. VandeGraaf 32  
 1 gun, their baton, any type of weapons that they  
 2 have. They put it in a special locker because  
 3 there's no weapons allowed in jail. They get you  
 4 again, the door opens, and you guys go inside  
 5 together.  
 6 Q. Tell me what that is. Is that something  
 7 somebody told you?  
 8 A. If you get out of the vehicle, that's how  
 9 you are supposed to be brought in.  
 10 Q. Somebody told you that?  
 11 A. Yes.  
 12 Q. Who told you that?  
 13 A. A sheriff.  
 14 Q. What was his name?  
 15 A. I don't remember.  
 16 Q. A sheriff?  
 17 A. A sheriff's deputy. Somebody who was with  
 18 me the whole time I had my surgeries and would  
 19 escort me to the hospital and back.  
 20 MR. VERGAMINI: Ms. Coit, can I take a  
 21 real quick break?  
 22 (A recess was taken.)  
 23 BY MS. COIT:  
 24 Q. All right. We are back on the record.  
 25 Before we took a break I was asking you about what a

J. VandeGraaf 33  
 1 sheriff deputy had told you about protocol. And you  
 2 were going to tell me when this person had told you  
 3 that.  
 4 A. He told me while I was in the car with  
 5 him.  
 6 Q. What day was this?  
 7 A. October 11th.  
 8 Q. Where were you going in the car with him?  
 9 A. Sacred Heart Medical Center.  
 10 Q. (sneeze.)  
 11 A. God bless you.  
 12 Q. Thank you. Was this the second time you  
 13 were taken to the hospital?  
 14 A. Yes.  
 15 Q. You don't recall his name?  
 16 A. No.  
 17 Q. Now, tell me specifically what you asked  
 18 that officer.  
 19 A. I asked the officer how a person was  
 20 supposed to be transported.  
 21 Q. That's all you asked him?  
 22 A. Exactly.  
 23 Q. What was his response?  
 24 A. He told me how you are supposed to be  
 25 transported.

J. VandeGraaf 35  
 1 take his gun off while you were standing there with  
 2 him?  
 3 A. Yes.  
 4 Q. Did you know Officer Sharlow before he  
 5 arrested you?  
 6 A. No.  
 7 Q. Have you spoken with officer sharlow since  
 8 the night you were arrested?  
 9 A. No.  
 10 Q. And the night we are talking about is  
 11 October 9, 2006?  
 12 A. On or about.  
 13 Q. You have not spoken to him since that  
 14 night?  
 15 A. I have not, no.  
 16 Q. Have you talked to anyone from the City of  
 17 Eugene about Officer Sharlow's training?  
 18 A. About his training? No.  
 19 Q. Have you talked to anyone from the City of  
 20 Eugene about Officer Sharlow's disciplinary history?  
 21 A. No.  
 22 Q. Have you done any investigation to try and  
 23 find out what kind of training officer Sharlow has  
 24 received?  
 25 A. No.

J. VandeGraaf 34  
 1 Q. And what did he say?  
 2 A. He said that this is the way he does it.  
 3 And I witnessed that because I was the inmate and he  
 4 was the guard.  
 5 Q. When did you witness that?  
 6 A. When I walked to the car to get into it,  
 7 when I was escorted from the car into the hospital,  
 8 when I was escorted from the hospital back to the  
 9 car, when I was escorted from the car back to the  
 10 jail, when I was escorted from the car into the  
 11 jail.  
 12 Q. And so what he told you was what you told  
 13 us earlier about take the gun off, put it in the  
 14 locker?  
 15 A. Exactly.  
 16 Q. Were you intoxicated at any time you were  
 17 with this other officer?  
 18 A. No.  
 19 Q. Were you cooperative with him?  
 20 A. Yes.  
 21 Q. Did you physically assault him?  
 22 A. No.  
 23 Q. Were you handcuffed?  
 24 A. Yes.  
 25 Q. So are you telling me this officer would

J. VandeGraaf 36  
 1 Q. How about training in general at the City  
 2 of Eugene? Have you talked to anyone about  
 3 training?  
 4 A. I guess I don't really understand the  
 5 question. I assume all police officers are trained.  
 6 How they are trained is not important to me.  
 7 I haven't ever talked to anybody about any  
 8 type of training that any police enforcement has  
 9 done anywhere I've lived, including here. It's not  
 10 something I am interested in or I would talk about  
 11 with friends or strangers.  
 12 Q. So sitting here today, do you have any  
 13 reason to believe that the police officers in Eugene  
 14 aren't properly trained?  
 15 A. No.  
 16 Q. Have you ever reviewed any training  
 17 documents or manuals from the City of Eugene?  
 18 A. No.  
 19 Q. Where were you living in October 2006?  
 20 A. Broadway Center Apartments.  
 21 Q. What was the address?  
 22 A. I don't remember. It was like 864 8th  
 23 Avenue. But like I said, I can't be exactly  
 24 positive. I haven't lived there for a couple of  
 25 years.

J. VandeGraaf	41	J. VandeGraaf	43
1 before you went home that night?		1 Q. Had you taken any drugs on October 10th,	
2 A. I don't remember.		2 2006?	
3 Q. Was it more than three?		3 A. No.	
4 A. Probably.		4 Q. Have you ever been drunk before?	
5 Q. Would it be more than ten?		5 A. I have.	
6 A. I couldn't answer that question.		6 Q. Are you violent when you are drunk?	
7 Q. Do you think you were drunk?		7 A. No.	
8 A. I was intoxicated.		8 Q. Never been violent when you're drunk?	
9 Q. Is there a difference between drunk and		9 A. No.	
10 intoxicated?		10 Q. Have you ever been in a fight, physical	
11 A. Yes.		11 fight?	
12 Q. What's the difference?		12 A. Yes. I was a child once.	
13 A. Intoxicated means you have alcohol in your		13 Q. Since the age of 20 have you ever been in	
14 system. Drunk means you are no longer able to		14 a physical fight?	
15 maintain composure over your body.		15 A. No.	
16 Q. You felt you had composure but you had		16 Q. No?	
17 alcohol in your system?		17 A. No.	
18 A. Exactly.		18 Q. All right. So you and Chelsea were out	
19 Q. If you were driving, do you think you		19 drinking at Jackalope. That's in Eugene?	
20 could be arrested for DUI?		20 A. That is.	
21 A. Yes. You cannot have any alcohol in your		21 Q. Is that on 6th?	
22 system. Even if it's below .08, you can still get		22 A. No. It's across from the train station on	
23 arrested for drinking and driving. You are not		23 willamette.	
24 supposed to have anything to drink before you drive.		24 Q. And do you recall what time you left	
25 Q. Was your blood alcohol level tested at any		25 Jackalope?	

J. VandeGraaf	42	J. VandeGraaf	44
1 point?		1 A. Late.	
2 A. No.		2 Q. What does that mean to you?	
3 Q. So sitting here today you don't believe		3 A. Midnight.	
4 you were drunk?		4 Q. Where did you go when you left?	
5 A. No.		5 A. I walked home.	
6 Q. Did you have full control over your		6 Q. Where did Chelsea go?	
7 judgment?		7 A. She drove home.	
8 A. No.		8 Q. Did she offer you a ride?	
9 Q. Was your judgment impaired?		9 A. No.	
10 A. Yes.		10 Q. At some point before you left to go home	
11 Q. Are you a violent person?		11 did you call Tiffanie?	
12 A. No.		12 A. On the way home from Jackalope's to my	
13 Q. Had you ever hit women before the night of		13 apartment, I tried to call Chelsea to make sure that	
14 October 10th?		14 she got home okay. And because I had been drinking	
15 A. No.		15 -- on my phone, if you hit Talk you can call the	
16 Q. Do you think Chelsea would remember that		16 person that you just missed the call from. So I	
17 you were drunk?		17 accidentally called Tiffanie. And when she answered	
18 A. I can't answer what somebody else would		18 I was like, "Did you get home okay?"	
19 remember.		19 And at that point I realized that I had	
20 Q. Was she drunk?		20 called the wrong person, so I just hung up.	
21 A. Not that I remember. She was a little		21 Q. You didn't recognize Tiffanie's voice when	
22 thing. I think she maybe had one or two drinks. I		22 she answered?	
23 came to find out later on in our relationship that		23 A. No.	
24 she was allergic to alcohol. She actually turned		24 Q. Would you normally recognize her voice?	
25 red. So it was an unfortunate thing for her.		25 A. Yes.	

J. VandeGraaf 53  
 1 tried to get you arrested before.  
 2 A. Nope.  
 3 Q. Were you surprised that she was making  
 4 this stuff up?  
 5 A. Yes.  
 6 Q. Did you talk to Tiffanie after this night?  
 7 A. Nope.  
 8 Q. So when did she leave with your daughter?  
 9 A. I don't know. I was in jail.  
 10 Q. You didn't try and call her?  
 11 A. No.  
 12 Q. Try and ask her, "why are you making this  
 13 stuff up about me?"  
 14 A. Well, I was in jail, so there's no phone  
 15 calls despite any type of illusion you might have of  
 16 what your rights are in jail.  
 17 And I was also not allowed to have any  
 18 contact with her after I had gone to court because  
 19 while I was in jail I was -- I received a  
 20 restraining order.  
 21 Q. So are you testifying that you didn't make  
 22 any phone calls while you were in jail?  
 23 A. No. I did make a phone call when I was  
 24 allowed to.  
 25 Q. Who did you call?

J. VandeGraaf 55  
 1 Steelhead Hopasaurus Rex hooded sweatshirt.  
 2 Q. Was your sweatshirt on backwards?  
 3 A. It was.  
 4 Q. Were you still intoxicated?  
 5 A. Yes.  
 6 Q. But not drunk.  
 7 A. No.  
 8 Q. Did you have any shoes on?  
 9 A. No.  
 10 Q. Do you sleep outside a lot?  
 11 A. No.  
 12 Q. Were you planning to sleep outside?  
 13 A. Yes.  
 14 Q. Did you take a pillow with you?  
 15 A. No.  
 16 Q. Blanket?  
 17 A. No.  
 18 Q. Was it cold?  
 19 A. Yes.  
 20 Q. You said you laid down on the ground next  
 21 to your Lexus?  
 22 A. Yes.  
 23 Q. What kind of Lexus do you have?  
 24 A. I had an LS400, 1990.  
 25 Q. Did you pass out?

J. VandeGraaf 54  
 1 A. I believe I tried to call my family.  
 2 Q. Did you speak --  
 3 A. I tried to call friends, but I didn't have  
 4 my phone. I didn't have any of my phone numbers. I  
 5 don't really remember who I was able to get ahold  
 6 of. I remember the first person that came to see me  
 7 was Volmert, John Volmert, some nothing attorney in  
 8 town. Public pretenders they call them.  
 9 Q. I'm sorry?  
 10 A. Public defender, John Volmert.  
 11 MR. VERGAMINI: Ms. Coit, may I speak  
 12 to my client?  
 13 MS. COIT: Certainly.  
 14 (A recess was taken.)  
 15 BY MS. COIT:  
 16 Q. All right. Before the break we were  
 17 talking about any phone calls you had in jail. At  
 18 some point did you call your mother?  
 19 A. I'm sure I did. I can't remember.  
 20 Q. So you don't remember the phone call with  
 21 your mother?  
 22 A. No, I don't.  
 23 Q. When you left your apartment, what were  
 24 you wearing?  
 25 A. A black pair of pants and a green

J. VandeGraaf 56  
 1 A. I went to sleep.  
 2 Q. How long did it take you to go to sleep  
 3 once you laid down?  
 4 A. Because I wasn't fully asleep -- I was in  
 5 a light sleep -- so probably not more than a minute  
 6 or two until I was woken up.  
 7 Q. When you were walking to the parking lot,  
 8 did you see two officers pass you by?  
 9 A. No.  
 10 Q. When is the first time you saw the  
 11 officers?  
 12 A. When I woke up.  
 13 Q. When you woke up outside on the pavement?  
 14 A. Yes.  
 15 Q. Did they wake you up?  
 16 A. Yes.  
 17 Q. Did they identify themselves?  
 18 A. Yes.  
 19 Q. Do you remember who it was?  
 20 A. Yes.  
 21 Q. Who?  
 22 A. Officer Sharlow, Officer Vreim.  
 23 Q. Had you met Officer Vreim before this  
 24 night?  
 25 A. No.

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1 Q. And you already told me you hadn't met  
2 officer Sharlow before.

3 A. Yes.

4 Q. What did the officers say to you?

5 A. They asked me who I was.

6 Q. And did you tell them?

7 A. Yes.

8 Q. What did you say?

9 A. Justin VandeGraaf.

10 Q. Did you have any ID with you?

11 A. No.

12 Q. Did they ask to see your ID?

13 A. No.

14 Q. What happened after that? Did they say  
15 anything else to you?

16 A. They arrested me.

17 Q. Before they arrested you, did they say  
18 anything else to you?

19 A. I don't remember.

20 Q. You don't remember?

21 A. No.

22 Q. What do you remember?

23 A. I remember they asked me who I was.

24 Q. Okay.

25 A. Then they helped me get up. And they put

J. VandeGraaf 59

1 things. Like I said, I can't really remember  
2 exactly what so I can't go on record saying that I  
3 said something if I can't remember exactly what.

4 But what I did just tell you is something  
5 I do remember and I did say. And like I said, it  
6 was very unfortunate.

7 Q. Did you get up off the ground by yourself?

8 A. Yes.

9 Q. Nobody had to help you?

10 A. I remember that they wanted to help assist  
11 me getting up quicker, so one of them grabbed my  
12 arm.

13 Q. And did they tell you why you were being  
14 arrested?

15 A. I don't know.

16 Q. You don't remember?

17 A. No.

18 Q. In this lawsuit are you challenging the  
19 basis for that arrest?

20 A. I guess I don't know what that means.

21 Q. Okay. Do you believe the officers had a  
22 valid reason to arrest you at that point from what  
23 they had learned from Tiffanie?

24 A. Well, if, you know, I told you that it was  
25 raining money outside and you agreed with me, then,

J. VandeGraaf 58

1 handcuffs on me, and they put me into one of their  
2 cars.

3 Q. Do you think they said anything to you?

4 A. I'm sure they did.

5 Q. You just don't remember?

6 A. No.

7 Q. Do you remember saying anything to them?

8 A. I do.

9 Q. What did you say?

10 A. I remember that it wasn't my most stellar  
11 moment, and I said things I regret and I wish I  
12 could take back. Unfortunately, I cannot. Things  
13 that are inappropriate that I would rather not  
14 repeat.

15 Q. I understand, but I'm going to ask you to  
16 repeat it.

17 A. Okay. I asked one of the officers if -- I  
18 probably asked both of them if they had any  
19 children. Officer Vreim told me he had a son. I  
20 told him I hope his son dies.

21 Q. Why did you say that?

22 A. Because they were taking me away from my  
23 daughter.

24 Q. Did you say anything else to them?

25 A. I'm sure, being upset, I said other

J. VandeGraaf 60

1 you know, yeah, I guess they were just.

2 Going based on what one person said and  
3 with no physical evidence, no, I don't think they  
4 were. I think that if someone says that they were  
5 raped that they have to prove that they were raped.

6 They can't just say, "I was raped."

7 Q. Before someone is arrested?

8 A. Exactly. So I understand the system works  
9 differently. So I'm sure in their eyes, yes, it was  
10 a precautionary measure in case what she was saying  
11 was true. Better to get me out of there.

12 MR. VERGAMINI: I'll just put an  
13 objection on the record inasmuch as the question  
14 asks for him to make a legal conclusion.

15 MS. COIT: Understood.

16 BY MS. COIT:

17 Q. Looking back on it today, knowing what the  
18 officers knew at that point, do you think you should  
19 have been arrested?

20 A. Yes.

21 Q. Have you reviewed the police report in  
22 this case?

23 A. Thoroughly.

24 Q. Do you recall the portions where the  
25 officers wrote down what you had been saying to

61 J. VandeGraaf  
 1 them?  
 2 A. Yes.  
 3 Q. Do you agree with those statements?  
 4 A. I don't disagree with them.  
 5 (Deposition Exhibit No. 1  
 6 marked for identification.)  
 7 BY MS. COIT:  
 8 Q. Can you take a look at Exhibit 1? Look at  
 9 the whole thing, tell me if you recognize what it  
 10 is.  
 11 A. Yep. I remember it. I got it while I was  
 12 in jail. It let me know that I was being charged  
 13 with all these criminal charges.  
 14 Q. When I just asked you if you had reviewed  
 15 the police report and you said yes, is this the  
 16 document you are referring to?  
 17 A. I've got to look at all of it.  
 18 It seems like it was longer, but maybe  
 19 not. Yep. That looks like it.  
 20 Q. Let me have you look at page -- it's up in  
 21 the right-hand corner -- it says page 5 of 6.  
 22 A. Yep.  
 23 Q. One, two, three, four paragraphs down.  
 24 Can you read that?  
 25 A. (Reading): VandeGraaf was surly,

63 J. VandeGraaf  
 1 A. Maybe 50 feet away from my car to their  
 2 police cruiser. And I was put in the back seat.  
 3 Q. Were you handcuffed?  
 4 A. I was, behind my back.  
 5 Q. When were you handcuffed?  
 6 A. Before I got in the car.  
 7 Q. Before you started walking to the car?  
 8 A. Yes.  
 9 Q. Did you have any trouble walking?  
 10 A. No.  
 11 Q. Who took you to jail?  
 12 A. Officer Sharlow.  
 13 Q. Did you see where Officer Vreim went?  
 14 A. I wasn't paying attention. But he stayed.  
 15 Q. He stayed?  
 16 A. He stayed. Yes. He didn't come with us.  
 17 Q. Was anyone in the -- anyone else in the  
 18 police car with you?  
 19 A. No. Me and Sharlow.  
 20 Q. Now, on the ride to the police station did  
 21 you say anything to Officer Sharlow?  
 22 A. I don't remember.  
 23 Q. Did he say anything to you?  
 24 A. Not that I remember.  
 25 Q. Did you lay down in the back seat?

62 J. VandeGraaf  
 1 profane, and uncooperative. He provided  
 2 Officer Vreim with his name. He told Officer  
 3 Vreim to, "suck my dick and lick my balls."  
 4 VandeGraaf pleaded for us to 'beat me to  
 5 death' so he could sue us.  
 6 Q. Do you agree with that statement?  
 7 MR. VERGAMINI: Object to the form of  
 8 the question.  
 9 BY MS. COIT:  
 10 Q. Do you agree with the description that you  
 11 were surly, profane, and uncooperative?  
 12 A. No. I think I was cooperative.  
 13 Q. Do you agree with the statement that you  
 14 told Officer Vreim to "suck my dick and lick my  
 15 balls"?  
 16 A. Yes.  
 17 Q. You did say that?  
 18 A. Yes.  
 19 Q. Did you plead with them to beat you to  
 20 death so you could sue them?  
 21 A. No. I don't remember that.  
 22 Q. Can you put that aside for a second, but  
 23 keep it with you.  
 24 Now, when you got on your feet in the  
 25 parking lot, where did they take you?

64 J. VandeGraaf  
 1 A. No.  
 2 Q. So you sat up the whole time?  
 3 A. (Witness nodded head.)  
 4 Q. Yes?  
 5 A. Yes.  
 6 Q. You didn't pass out?  
 7 A. No.  
 8 Q. Where did the police car pull in?  
 9 A. To the sally port of the Lane County  
 10 Correctional Facility on 5th Avenue.  
 11 Q. Had you been to the sally port before?  
 12 A. No -- Yes.  
 13 Q. When?  
 14 A. When I got my DUI.  
 15 Q. Did you know it was called a sally port?  
 16 A. No. I don't think I was really hip to the  
 17 name before that.  
 18 Q. How are you hip to the name now?  
 19 A. I was there, so I know what things are  
 20 called.  
 21 Q. You were what?  
 22 A. I was in jail.  
 23 Q. So you pulled in the sally port. Was  
 24 there anyone else in there?  
 25 A. No.

J. VandeGraaf 69

1 Q. If he just wanted you to fall, why  
2 wouldn't he just push you back?  
3 A. I don't know.  
4 Q. Do you think he was maybe trying to break  
5 your fall?  
6 A. No, I don't.  
7 Q. Were you being uncooperative?  
8 A. No.  
9 Q. How long did this whole incident take from  
10 the time you got up out of the car until you were on  
11 the ground?  
12 A. A moment.  
13 Q. Just a moment?  
14 A. A moment. Two minutes.  
15 Q. Two minutes?  
16 A. Yeah. A moment. Two minutes. I don't  
17 know.  
18 Q. Closer to two minutes or a moment?  
19 A. What would you classify as a moment? A  
20 moment in time to me --  
21 Q. A second?  
22 A. A second? It was more than one second.  
23 Q. So you stood up. Did you stand there for  
24 a few seconds?  
25 A. No. I fell right away.

J. VandeGraaf 71

1 they've got it on video.  
2 And then they've got guys in the sheriff's  
3 department with riot gear and pads and protection  
4 and helmets, and they come out and make sure that  
5 you are not going to be difficult.  
6 Q. So I guess what you're saying is there was  
7 reason for Officer Sharlow to believe you were going  
8 to be difficult?  
9 A. If there was he would have called up and  
10 have them turn the cameras on.  
11 Q. So he didn't know you were going to be  
12 difficult?  
13 A. I hadn't been difficult and I wasn't going  
14 to be difficult. I don't think that's why he  
15 called.  
16 Q. Who did he call?  
17 A. He didn't. That's what I'm saying. If I  
18 had been, that's, I guess, sort of protocol.  
19 Q. According to who?  
20 A. According to me, I guess.  
21 Q. So this is your idea of what protocol is?  
22 A. I witnessed it while I was in jail. And I  
23 saw it happen, so I was like, oh, that must be what  
24 it's like if you are being difficult.  
25 Q. You witnessed something in the sally port?

J. VandeGraaf 70

1 Q. But it may have been two minutes?  
2 A. From when I got up, yeah.  
3 Q. What did you do after you got up?  
4 A. I didn't.  
5 Q. Didn't what?  
6 A. I didn't get up.  
7 Q. Okay. What I'm asking you is when you  
8 stood up out of the car -- You are standing there  
9 next to the car. Was it a few minutes that you  
10 stood there?  
11 A. It was right away.  
12 Q. Right away what happened? Is that when  
13 officer Sharlow put his hand on you?  
14 A. Yes.  
15 Q. No words were said?  
16 A. Not that I remember. I'm sure I was  
17 talking to him. I'm sure I was mouthing off. I  
18 wasn't being uncooperative.  
19 And I guess one thing that's really  
20 important to know is that if a police officer or a  
21 sheriff is going to have any problem with anyone,  
22 then they call the sheriff's department and they  
23 say, "we have somebody who is going to be a  
24 problem." And they turn their cameras on in the  
25 sally port so they can videotape everything and

J. VandeGraaf 72

1 A. No. I was in jail.  
2 Q. So this has nothing to do with somebody  
3 being taken out of a car.  
4 A. No. It wasn't out of a car. It was  
5 brought in.  
6 Q. So let me take you back. I just want to  
7 get straight on exactly what happened when you got  
8 out of the car. You stood up. And you think you  
9 may have said something?  
10 A. Yep.  
11 Q. Do you think Officer Sharlow may have said  
12 something back to you?  
13 A. He could have.  
14 Q. Do you not remember?  
15 A. I don't.  
16 Q. Do you maybe not remember chest bumping  
17 him, then?  
18 A. I guess what -- No. I don't recall chest  
19 bumping him. That's why I said I didn't bump his  
20 chest.  
21 Q. Is it possible it could have happened,  
22 though?  
23 A. I'm saying no. I mean, you are asking if  
24 something's possible.  
25 Q. Well, you are telling me you don't

J. VandeGraaf

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1 remember if you said anything to him, but you  
 2 probably did. So I'm asking if maybe you did chest  
 3 bump him and you just don't remember. Is that  
 4 possible?

5 A. Anything's possible. I don't remember  
 6 doing it.

7 Q. Okay. Did you know Officer Sharlow was  
 8 taking you to the ground before it happened?

9 A. No.

10 Q. So it came out of nowhere?

11 A. Came out of nowhere.

12 Q. So you weren't in fear of falling to the  
 13 ground and hurting yourself?

14 A. No.

15 Q. Have you been trained in how a police  
 16 officer is supposed to take someone to the ground?

17 A. No.

18 Q. Do you know if Officer Sharlow has been  
 19 trained in how to take someone to the ground?

20 A. I sure hope he has. He is a Eugene city  
 21 police officer and he has a right to protect and  
 22 serve, not to beat and punish.

23 Q. He has a right or a duty?

24 A. A duty. I don't know. Use whatever words  
 25 you want. I didn't go to college. Remember?

J. VandeGraaf

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1 the law.

2 Q. So in this situation, you consider the leg  
 3 sweeping out as striking you?

4 A. Yes. Most definitely. I think if I were  
 5 to do that to another human being it would be  
 6 considered assault.

7 Q. You are not a police officer. Right?

8 A. I'm not.

9 Q. Now, have you -- since you filed this  
 10 lawsuit, have you done any investigation to find out  
 11 if this little move was illegal?

12 A. Little move? No.

13 Q. Have you done anything to find out whether  
 14 or not how Officer Sharlow took you to the ground  
 15 was acceptable under the Eugene police department  
 16 policies?

17 A. It doesn't really matter to me, I guess,  
 18 whether it's acceptable or not. That's why I filed  
 19 a lawsuit, because it's not acceptable to me.

20 I suppose if I had been brought to the  
 21 ground and I had caught a scratch or maybe just this  
 22 laceration that opened up my chin that they sewed up  
 23 and put a titanium plate in, I could have let it go.  
 24 But my jaw was broken in two different places and I  
 25 was missing two teeth.

J. VandeGraaf

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1 Q. So you don't know if he has been trained  
 2 in how to take someone to the ground?

3 A. No. I don't know.

4 Q. Do you know if the Eugene police  
 5 department has a training program on how to take  
 6 prisoners to the ground?

7 A. I don't.

8 Q. Do you know if the actual tripping move  
 9 that Officer Sharlow used to take you to the ground  
 10 was approved by the Eugene police department?

11 A. I don't.

12 Q. Do you have any reason to believe it  
 13 wasn't approved?

14 A. I do. Yep.

15 Q. Tell me.

16 A. My brother's in the military. And I  
 17 actually do know a lot of law enforcement agents and  
 18 -- you know, over the years meeting people. And you  
 19 are not allowed to physically strike somebody that's  
 20 got handcuffs on, whether it be with your leg or  
 21 your arm. As far as I've been told, it's considered  
 22 illegal.

23 If a person is not handcuffed, that's a  
 24 totally different story. So like I said, that's  
 25 just what I -- I guess I believe and I thought was

J. VandeGraaf

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1 Q. Okay. So --

2 A. So not acceptable.

3 Q. -- not acceptable to you?

4 A. To me.

5 Q. But you don't know if it was acceptable --

6 A. No, I don't know.

7 Q. -- under the Eugene police department  
 8 policies?

9 A. No.

10 Q. So in your opinion sitting here today, you  
 11 were not being uncooperative before you were taken  
 12 to the ground?

13 A. No. I had no problem going to jail.

14 Q. Didn't charge Officer Sharlow?

15 A. No. I guess if I wanted to leave and not  
 16 be arrested and be uncooperative and be difficult,  
 17 then when I was approached by the police officers I  
 18 would have got up next to my Lexus and run away.  
 19 And then they could have tried to catch me and we  
 20 could have been on a street chase.

21 I let them handcuff me. I let them put me  
 22 in the car. I let them bring me to the sally port.

23 Like I said, in the sally port if I was  
 24 being difficult the officer could have walked away.  
 25 I wouldn't have been able to do any damage other

J. VandeGraaf 77  
 1 than to myself -- 15-foot high walls, one police  
 2 cruiser, me handcuffed and intoxicated.  
 3 And at that time he had, I'm assuming, his  
 4 bulletproof vest on, his belt with his gun and extra  
 5 live ammunition, police baton.  
 6 Q. Do you think your judgement was impaired  
 7 during this whole --  
 8 A. I do.  
 9 Q. How do you think that affected how you  
 10 acted?  
 11 A. It made me act impolite and unbecoming.  
 12 Q. Was this before or after you were taken to  
 13 the police station?  
 14 A. Before.  
 15 Q. How about after you were taken to the  
 16 sally port and got out of the car?  
 17 A. Like I said, I didn't do anything in the  
 18 sally port.  
 19 Q. I think you said you may have said some  
 20 things.  
 21 A. Yeah. I'm saying I didn't do anything.  
 22 Q. You didn't actually physically do  
 23 anything?  
 24 A. Yeah.  
 25 Q. But you may have said some things?

J. VandeGraaf 79  
 1 his gun out, put it in the locker and booked me and  
 2 just left me in jail.  
 3 Q. So what happened after you were taken to  
 4 the ground?  
 5 A. After I was taken to the ground I had a  
 6 boot hit me right here. My head was forced into the  
 7 pavement with more pressure than I would assume  
 8 needed. I'm not sure, you know.  
 9 And I don't remember anything after that  
 10 until I woke up in the jail the following morning.  
 11 I'm not even sure of the time. It seemed like it  
 12 was later morning.  
 13 Q. Tell me about the boot to the head. Was  
 14 that somebody kicking you or holding your head down  
 15 with a foot?  
 16 A. It was -- I couldn't say it was a kick.  
 17 No. If somebody kicked my head, it would have been  
 18 different. It was assisted pressure. The foot felt  
 19 like, you know, a nice, solid, you know, putting  
 20 your foot on someone's head.  
 21 So he didn't smash it in multiple times.  
 22 That I remember. Like I said the first time, it  
 23 made contact; I was out.  
 24 Q. What do you think -- so you think you were  
 25 knocked out?

J. VandeGraaf 78  
 1 A. Yeah. I may have said some things.  
 2 Q. But you don't remember?  
 3 A. No.  
 4 Q. But you may have said some things?  
 5 A. I was coherent to know I wasn't doing  
 6 anything illegal, because I'm a big fan of the law,  
 7 sometimes, and you are not allowed to threaten  
 8 anyone's life ever. That's why what I said to  
 9 officer Vreim wasn't illegal.  
 10 Q. Wasn't or was?  
 11 A. Wasn't.  
 12 MR. VERGAMINI: I'm sorry. Go ahead.  
 13 I was going to ask if this is a good time for a  
 14 break.  
 15 MS. COIT: Sure.  
 16 (A recess was taken.)  
 17 (The last question and answer were  
 18 read back.)  
 19 BY MS. COIT:  
 20 Q. So do you think it was unreasonable for  
 21 officer Sharlow to want you on the ground --  
 22 A. Yes.  
 23 Q. -- at that point? In your opinion what  
 24 should he have done instead?  
 25 A. Walked me over to the glass door, taken

J. VandeGraaf 80  
 1 A. I was.  
 2 Q. What knocked you out? Do you know?  
 3 Hitting your head on the ground or the boot on your  
 4 head?  
 5 A. Well, the boot on the head is the last I  
 6 remember, so it must have been that.  
 7 Q. Do you remember hitting the ground?  
 8 A. No.  
 9 Q. Do you know what you hit on the ground?  
 10 A. What I hit?  
 11 Q. Did you just hit the concrete?  
 12 A. Yep.  
 13 Q. With your chin?  
 14 A. I guess so. I just fell forward. I had  
 15 been drinking. I was intoxicated. I had that boot  
 16 in the back of the head and, like I said, I don't  
 17 remember anything.  
 18 I could tell you what I was told happened  
 19 after that, but I don't know.  
 20 Q. Do you think the drinking had any affect  
 21 on you being able to stay on your feet?  
 22 A. Stand on my feet?  
 23 Q. Had you not been drinking, do you think  
 24 you may have stayed on your feet?  
 25 A. I was on my feet.

J. VandeGraaf 81

1 Q. At some point you weren't on your feet.  
 2 A. After he kicked my feet out from  
 3 underneath me. I don't think alcohol played any  
 4 part in that.  
 5 If somebody kicked my feet out from  
 6 underneath me right now, completely sober, I would  
 7 still fall to the ground if I was handcuffed behind  
 8 my back because you don't have hands to break your  
 9 fall. You fall forwards or backwards depending on  
 10 where your body leans.  
 11 Q. Do you recall Officer Sharlow's hand  
 12 giving you any support as you went down?  
 13 A. No.  
 14 Q. Do you recall that he didn't give you any  
 15 support?  
 16 A. I do. I remember that I fell straight to  
 17 the ground whereas if he had kept his hand on my  
 18 hooded sweatshirt, I'm assuming my upper body would  
 19 have stayed above the ground. So he let go of that  
 20 while I fell.  
 21 Q. Now, you were going to tell me what  
 22 someone told you had happened?  
 23 A. Yeah, I was told --  
 24 Q. First, who? Who told you?  
 25 A. This same deputy that had me pretty much

J. VandeGraaf 83

1 downstairs for booking. And they took my mug shot,  
 2 took my fingerprints. And I had been complaining  
 3 about pain since I woke up. I was asking them for  
 4 ibuprofen. It looked like a rash.  
 5 So this one lady, she took some sympathy  
 6 on me, and she called a nurse at the jail who was  
 7 maybe an Asian-descent type guy. Got glasses, a  
 8 male nurse, doctor over there at the jail. He took  
 9 a look at my jaw. "This isn't right," because it  
 10 was hanging on and stuff. That's when I was  
 11 assigned to this deputy.  
 12 And they brought me down. And I wasn't at  
 13 the hospital for very long once I was seen. I had  
 14 to wait there for a little while. I remember I  
 15 didn't give them any of my information. I wasn't  
 16 into participating at that point.  
 17 Q. Was this the next day?  
 18 A. This is the next day. This is what I  
 19 remember.  
 20 So the deputy gave them all my  
 21 information, my name, my social security number, the  
 22 works. And I was like, that's great, you know, I  
 23 have no rights whatsoever.  
 24 Then they brought me in for something  
 25 other than an X-ray. I think it was a CAT scan or

J. VandeGraaf 82

1 the whole time. He was, I guess, kind of assigned  
 2 to me. Real nice guy.  
 3 He told me, you know, that he had heard,  
 4 because it was going around like, I guess, gossip at  
 5 jail -- you know, "Did you hear about the guy in the  
 6 sally port?" -- that they wouldn't let Sharlow bring  
 7 me into jail because I was bleeding.  
 8 This (indicating) was all split up.  
 9 So you did it; you go take care of it.  
 10 So I was escorted to Sacred Heart Medical  
 11 Center I'm assuming by Sharlow.  
 12 Then when I went in the following day with  
 13 this deputy, I saw for the first time, for me, a  
 14 couple of people in the hospital that remembered me  
 15 from the night before. And they said that I was  
 16 extremely difficult at the hospital and that it took  
 17 multiple people to, you know, calm me down and stuff  
 18 so that they could take this X-ray and sew me up and  
 19 stuff. I wasn't very happy.  
 20 Q. Do you remember any of that?  
 21 A. I don't. No. Apparently they X-rayed me  
 22 and they said, "Yeah, you're fine," you know.  
 23 But again, you know, the sheriff's  
 24 department brought me back, because after I woke up  
 25 I was arraigned upstairs in jail and I was brought

J. VandeGraaf 84

1 MRI. I can't remember. It didn't take long.  
 2 And then I was laying in the bed. Maybe  
 3 ten minutes went by and they came over, "Yep, your  
 4 jaw is broken in two." They didn't tell me it was  
 5 in two different places. I didn't find that out  
 6 until after the surgery. But yeah, "Your jaw is  
 7 broken," blah, blah, blah, "we have to do surgery."  
 8 They gave me a big shot of drugs in my  
 9 butt. Put me out. Said I wasn't allowed to eat  
 10 anything or drink anything before the surgery. They  
 11 couldn't confirm I hadn't eaten or drunk anything,  
 12 even though I had been in custody. So they brought  
 13 me back to the jail, and then I had surgery the  
 14 following day.  
 15 Q. So why do you think you can't remember  
 16 what happened at the hospital?  
 17 A. I don't know. I'm not a doctor.  
 18 Q. Have you told any doctor that you don't  
 19 have any memory of that period of time?  
 20 A. No. I don't have insurance so I don't go  
 21 see doctors.  
 22 Q. But you are saying you can remember  
 23 everything up to the boot being placed on your head?  
 24 A. Yes.  
 25 Q. And then it's just a complete blank?

J. VandeGraaf 85

1 A. Complete blank.

2 Q. Is the memory before that a little fuzzy

3 or is it crystal clear in your mind?

4 A. Crystal clear in my mind. I can close my

5 eyes and picture myself.

6 Q. And you think you got your memory back.

7 when you woke up the next day?

8 A. I did get my -- I didn't get my memory

9 back. I don't remember what happened.

10 Q. You started remembering again, I guess.

11 A. I was coherent to what was going on when I

12 woke up.

13 Q. Sitting here today you can remember waking

14 up?

15 A. That I woke up in jail. Yep. Yep.

16 Q. After your surgery, did you go back to

17 jail?

18 A. Yep.

19 Q. How long were you in jail?

20 A. I was in jail for a total of 11 days.

21 Q. Were you in a special medical wing?

22 A. Yep. I was locked up in solitary in a

23 medical unit. I was put in the corner cell. I

24 couldn't see anybody and nobody could see me unless

25 the guard walked up to a little window about that

J. VandeGraaf 87

1 A. I think I was in that one for like a week.

2 Q. A week?

3 A. Yeah. It wasn't until I went for my post

4 checkup, which was outside of the hospital -- I went

5 to Dr. Timothy Welch's office on Country Club Road

6 with a deputy. And there they changed it around a

7 little bit. When I came back, I got my medicine

8 more on time and then they moved me.

9 Q. Was this the same deputy that had been

10 driving you around?

11 A. No.

12 Q. This was a different deputy?

13 A. Yeah.

14 Q. When you said you were denied any pain

15 medication, for what period of time was that?

16 A. Better part of a week. I would get it,

17 but nowhere near as much as I needed. And they

18 informed me that they didn't care. They were like,

19 "We are not here to serve you."

20 My doctor told me that I was supposed to

21 receive this medication at a certain time. And the

22 nurse, the med lady who delivers the medication at

23 jail, was like, "I've got a hundred-and-this-many

24 people to give stuff to, and I can't get in here all

25 the time." So sometimes I would have to wait, you

J. VandeGraaf 86

1 big (indicating). And I was denied any type of pain

2 medication for an extended period of time.

3 Then after the surgery my mouth was wired

4 shut. They moved me to a different room with huge

5 glass windows so that they could see me, because the

6 doctor informed them that I could choke on my own

7 vomit if I threw up and I could die. So they gave

8 me a special bed, Craftmatic-type deal, you know. I

9 was pretty much put in the penthouse suite at jail.

10 And they were able to keep a much better eye on me.

11 I was able to walk around because it was big enough

12 to kind of walk around.

13 MR. VERGAMINI: Can I clarify for the

14 record, when Mr. VandeGraaf noted a window was so

15 big that he was making a gesture that was about 6

16 inches --

17 A. It's like a 4-inch-wide by maybe

18 6-inch-in-height window that's on those doors.

19 BY MS. COIT:

20 Q. This is the first --

21 A. The medical. The first cell.

22 Q. The first cell you were in before your

23 surgery?

24 A. Yes. And after, in the very beginning.

25 Q. How long were you in that cell?

J. VandeGraaf 88

1 know, eight hours, ten hours. I'm supposed to get

2 this medicine every four hours. I mean, I went from

3 -- I don't even know how much morphine they gave me.

4 I was on a morphine drip. They would pump morphine

5 into me every seven minutes.

6 Q. You still needed more pain medication?

7 A. This was after the surgery, yeah, because

8 then I left the hospital.

9 Q. And you were off the morphine?

10 A. And I was off the morphine.

11 Q. And in this lawsuit are you making a claim

12 against the jail staff for how you were treated?

13 A. No. I mean, I assume that everybody's got

14 really good employees and really bad. And I got to

15 meet both of them.

16 Q. How long did it take for your jaw to heal

17 from the surgery?

18 A. Oh, a long time. I don't know. A couple

19 of months later I could eat food. So the whole time

20 I was in jail my mouth was unusable, at first

21 because my jaw was hanging on and then second

22 because my mouth was wired shut.

23 So my doctor gave me a plastic syringe

24 with an angled tip that I could inject into water or

25 any type of liquid and I could fill up and stick it

J. VandeGraaf

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1 and they say something in court, people tend to  
2 agree with them more because they hold a higher  
3 position in the community than I do.

4 For instance, if I was driving in the  
5 country in my Lexus and I were to be pulled over by  
6 Officer Sharlow, he could shoot me and put a gun in  
7 my car. And it would be like, "Oh, Mr. VandeGraaf  
8 tried to pull a gun on me." You know what I mean?  
9 I'm out there alone. I used to tell people that I  
10 was really afraid.

11 Never of anybody at the sheriff's  
12 department. I was in jail -- the whole time I never  
13 had any deputies at the sheriff's department be  
14 really mean to me directly or unbecoming or  
15 anything.

16 And I have actually not really had any  
17 problems with any of the Eugene police officers.

18 But of course with what happened, you  
19 know, waking up knowing that that officer directly  
20 -- you know, Vreim didn't do anything to me. He  
21 wasn't there. He was talking with Tiffanie. But,  
22 you know, Sharlow had the advantage and he took  
23 advantage of it. And, yeah, I would be scared if I  
24 was pulled over by him.

25 Q. So are you saying -- what I think you are

J. VandeGraaf

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1 understand, if I were to do something to a customer  
2 at Steelhead Brewery, people could still sue the  
3 brewery even though the brewery didn't do anything  
4 because I work for them.

5 Q. So that's why you are likening --  
6 A. I guess that's what I'm doing. I'm not a  
7 lawyer. I guess that's how it works. I'm just a  
8 server.

9 Q. Are you currently receiving any medical  
10 treatment for your injuries?

11 A. No.

12 Q. Were your medical bills paid for by the  
13 City?

14 A. No. None of them were paid for by the  
15 City.

16 Q. Were they paid for by somebody?

17 A. 65 percent of my bills were paid for by  
18 the sheriff's department, but definitely not the  
19 City of Eugene. And I've actually been served  
20 papers at work for small claims, which are still  
21 coming after me for money for anesthesia I had for  
22 the surgery.

23 Q. How much do you still owe?

24 A. I still owe, for the anesthesia, \$600; for  
25 my dentist, 2,000; and Timothy Welch and the

J. VandeGraaf

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1 saying is you don't have any problem with the Eugene  
2 police department. It's just a problem with officer  
3 Sharlow.

4 A. Yeah.

5 Q. Do you think the Eugene police department  
6 did anything wrong in this situation?

7 MR. VERGAMINI: Object to the form of  
8 the question. It's asking him for a legal  
9 conclusion.

10 A. I think the Eugene police department is  
11 responsible.

12 BY MS. COIT:

13 Q. Why do you think that they are  
14 responsible?

15 A. Because Officer Sharlow works for them.

16 Q. Okay.

17 A. And I actually was just notified by my  
18 lawyer that he was taken off the case or out of the  
19 case from a request from you guys, which I totally  
20 did not know of and did not approve. But I  
21 understand that things happen. Life moves on.

22 I don't hold anything against Sharlow  
23 personally. He was like it's going to be better,  
24 take him out of the case, whatnot.

25 I guess to put it in a perspective so you

J. VandeGraaf

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1 hospital -- I'm not even sure.

2 Q. Have you paid any of that or is it all  
3 still outstanding?

4 A. I've actually refused to pay it because I  
5 find that I'm not responsible for it. I've talked  
6 to them all and told them, like, if I was out and  
7 did this to myself, you know, I would have no  
8 problem paying for it. If I didn't have the money,  
9 I would set up a payment program.

10 But as this is something I didn't do to  
11 myself -- it was done to me -- I can't find myself  
12 as somebody who is going to pay for it, whether I  
13 have the money to pay for it or not.

14 Q. Do you have any other out-of-pocket  
15 expenses related to this injury?

16 A. No. Timothy Welch, Sacred Heart Medical  
17 Center, Northwest Anesthesia, and Oregon Family  
18 Dental is it.

19 Q. So -- I apologize if I may have already  
20 asked this. Can you tell me how you believe the  
21 City of Eugene failed to properly train its  
22 officers?

23 A. Can I tell you that? No. I can't tell  
24 you that.

25 Q. Do you think that the City of Eugene

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1 situation or a temporary one?

2 A. No. It was temporary. What the plan was,  
3 she was going to get a job and start meeting people  
4 at her job and hopefully become friends with some  
5 people.

6 Q. Let's talk about the living situation.

7 A. Eventually she would be able to have her  
8 own money from her job. I would have my own money  
9 from my own job. Then she could move in and have an  
10 apartment somewhere or a place to live. And then I  
11 would have a place to live.

12 That's why I was trying to build a bridge  
13 to her getting a job versus me having two jobs.  
14 Because if I have two jobs forever, then I will  
15 always be supporting her. If she can make her own  
16 money, then I can spend more time with my daughter.

17 Q. The plan was you would live apart, but you  
18 were helping her out temporarily by providing a roof  
19 over her head. Is that correct?

20 A. Yes.

21 Q. Now, there was testimony that -- you were  
22 asked if you suffered any anxiety or depression  
23 after the incident. I'm going to break that down.  
24 If you weren't or didn't, tell me. This is not a  
25 trick question in any way.

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1 A. Yep.

2 Q. Physical pain. Were you able to sleep at  
3 night because of this pain?

4 A. No. I don't actually normally sleep more  
5 than three to five hours.

6 Q. How long did the pain last? I know you  
7 had testimony about this earlier.

8 A. It was really strong after it happened.  
9 And it dissipated as the months went on. I would  
10 assume three to four months later I felt pretty  
11 good. I could chew meat.

12 Q. Did you ever have nightmares about what  
13 happened?

14 A. No. Never about what happened with  
15 Sharlow.

16 Q. Just with Sharlow. That's all I'm talking  
17 about.

18 A. No. Never when I was dreaming -- like I  
19 had mentioned earlier, for a while I was pretty  
20 afraid and I would tell my friends and stuff. And  
21 they were like, "Oh, you are just being paranoid."

22 But I lived out of town. Every time a cop  
23 siren went by or anything, I felt very -- I could  
24 not believe I was put in this position with the lack  
25 of evidence.

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J. VandeGraaf

1 So were you depressed for a period of time  
2 after this incident occurred?

3 A. With the anxiety and depression -- I'm not  
4 a doctor. I haven't been -- haven't gone to see any  
5 doctors for it. I'm still depressed, I guess.

6 If you want to say anxiety, you know, I  
7 get emotional when I hear certain songs on the radio  
8 that I remember were our songs. When I say us, I  
9 mean me and my daughter.

10 I don't know if my daughter's alive. I  
11 sure hope she is. I have no whereabouts of her.

12 You know, very few people in this world  
13 love their children the way I love my daughter. And  
14 that isn't an opinion. That's like a factual  
15 statement. I know a lot of people, and they all  
16 have children. Some people don't really like their  
17 kids. Some people consider their kids a nuisance.  
18 Some people don't interact with them. For me, she  
19 was why I woke up in the morning.

20 Q. I understand. The question that I have,  
21 though, is since the incident with Officer Sharlow  
22 where you were tripped, thrown to the ground, had  
23 your jaw broken, have you -- I'll break it down into  
24 some symptoms. Did you -- You were in pain for a  
25 period of time after that. Is that right?

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J. VandeGraaf

1 In the report Officer Vreim states that  
2 when he looked at Tiffanie, there was no physical  
3 damage done to her.

4 Q. Just what happened at the sally port.  
5 That's all I'm talking about.

6 A. No dreams. No bad dreams.

7 Q. And you never went to any mental health  
8 professional or psychiatrist or counselor about just  
9 the incident with Officer Sharlow. Is that right?

10 A. No.

11 MR. VERGAMINI: All right. I have  
12 nothing further at this time.

13 MS. COIT: I just have a couple.  
14

15 FURTHER EXAMINATION

16 BY MS. COIT:

17 Q. Do you know if Eugene police officers  
18 receive training on how to deal with stress?

19 A. I honestly don't know anything about  
20 Eugene police officers other than they wear a blue  
21 uniform and drive a blue car.

22 Q. And now I just want to understand the  
23 physics of how you are telling me this happened.  
24 You said you stood up out of the police car and  
25 Officer Sharlow was in front of you, facing you. Is

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 1 that right?  
 2 A. Yes.  
 3 Q. Then you say he grabbed your hood that was  
 4 on the front of your shirt.  
 5 A. Yes.  
 6 Q. And then he swept your feet out and you  
 7 fell face forward?  
 8 A. Mm-hmm.  
 9 Q. Can you tell me how that happened? Where  
 10 did he contact your legs? In the front of your  
 11 legs? On the side?  
 12 A. The side.  
 13 Q. Do you remember which side?  
 14 A. Yes, I do. I actually talked about it  
 15 earlier. I got hit from the right and he swept my  
 16 legs out towards the left. He kicked me with his  
 17 right leg towards the police car. Since he is  
 18 holding my sweatshirt, I fell towards him. He  
 19 didn't hold onto it; thus my head would not have hit  
 20 the ground. He was standing right next to my head.  
 21 Fell towards him. Boot right to the head.  
 22 Q. So he swept you out sideways towards the  
 23 police car, but you somehow fell forward. And you  
 24 did not fall on Officer Sharlow?  
 25 A. I did not.

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 Reporter's Certificate  
 1 State of Oregon } ss.  
 2 County of Lane }  
 3  
 4 I, Eleanor G. Knapp, CSR-RPR, a Certified  
 5 Shorthand Reporter for the State of Oregon, certify  
 6 that the witness was duly sworn and the transcript  
 7 is a true record of the testimony given by the  
 8 witness; that at said time and place I reported in  
 9 stenotype all testimony and other oral proceedings  
 10 had in the foregoing matter; that the foregoing  
 11 transcript consisting of 126 pages contains a full,  
 12 true and correct transcript of said proceedings so  
 13 reported by me to the best of my ability on said  
 14 date.  
 15 If any of the parties or the witness requested  
 16 review of the transcript at the time of the  
 17 proceedings, such correction pages are attached.  
 18 IN WITNESS WHEREOF, I have set my hand and CSR  
 19 seal this 4th day of May 2009, in the City of  
 20 Eugene, County of Lane, State of Oregon.  
 21  
 22 \_\_\_\_\_  
 23 Eleanor G. Knapp, CSR-RPR  
 24 CSR No. 93-0262  
 25

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 J. VandeGraaf  
 1 Q. But you did fall forward?  
 2 A. Yes.  
 3 Q. Not towards the police car?  
 4 A. Not towards the police car. Next to it.  
 5 Q. You are sure he wasn't standing next to  
 6 you?  
 7 A. Yes, I am sure.  
 8 Q. Okay. And then when you were talking  
 9 about the depression and getting emotional, you are  
 10 linking that to losing your daughter. Is that  
 11 correct?  
 12 A. Yes.  
 13 MS. COIT: That's all I have. Thank  
 14 you.  
 15 (The deposition was concluded  
 16 at 12:16 p.m.)  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 State of Oregon )  
2 County of Lane )  
3

4 I, Eleanor G. Knapp, CSR-RPR, a Certified  
5 Shorthand Reporter for the State of Oregon, certify  
6 that the witness was duly sworn and the transcript  
7 is a true record of the testimony given by the  
8 witness; that at said time and place I reported in  
9 stenotype all testimony and other oral proceedings  
10 had in the foregoing matter; that the foregoing  
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19 seal this 4<sup>th</sup> day of May 2009, in the City of  
20 Eugene, County of Lane, State of Oregon.

21 Eleanor G. Knapp  
22

23 Eleanor G. Knapp, CSR-RPR

24 CSR No. 93-0262



25  
Exhibit 1  
Page 17 of 17

**CERTIFICATE OF SERVICE**

I certify that on May 11, 2009, I served or caused to be served a true and complete copy of the foregoing **DECLARATION OF ANDREA COIT IN SUPPORT OF THE CITY OF EUGENE'S MOTION FOR SUMMARY JUDGMENT** on the party or parties listed below as follows:

- Via CM / ECF Filing  
 Via First Class Mail, Postage Prepaid  
 Via Email  
 Via Personal Delivery

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Of Attorneys for Defendant City of Eugene

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**CERTIFICATE OF SERVICE**